

HAND
CARRIED

RECEIVED
MO INS DEPT
AUG 18 2006

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

LEGAL DEPT.

W. DALE FINKE, Director
Department of Insurance
State of Missouri,

Petitioner,

v.

MICHAEL SPILLMAN,

Respondent.

AUG 18 2006

STATE OF MISSOURI
DEPARTMENT OF INSURANCE

Case No. 06-0480DI

FILED

AUG 21 2006

STIPULATION OF FACTS AND CONSENT TO
FINDING OF CAUSE FOR DISCIPLINE
AND WAIVER OF HEARING

ADMINISTRATIVE HEARING
COMMISSION

Pursuant to the terms of section 536.060, RSMo, as it is made applicable to the Administrative Hearing Commission by section 621.135, RSMo and 1 CSR 15-3.440, the parties to this agreement stipulate to the following facts, waive their right to a hearing and consent to a finding of cause to discipline the insurance producer license of Respondent Michael Spillman in the above-styled case by the Administrative Hearing Commission (hereinafter, "AHC") of the State of Missouri.

Respondent acknowledges that he has been served, that he has reviewed a copy of the Complaint filed with the AHC and that he submits to the jurisdiction of the AHC.

Respondent acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel at his own expense; the right to have all allegations against him proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at

the hearing; the right to present evidence on his behalf; the right to a decision based upon the record by a fair and impartial Administrative Hearing Commissioner concerning the Complaint pending against him; and the right to a ruling on questions of law by an Administrative Hearing Commissioner.

Having been advised of these rights provided to Respondent by operation of law, Respondent knowingly and voluntarily waives each of those rights and freely enters into this Stipulation of Facts and Consent to Finding Cause for Discipline and Waiver of Hearing (hereinafter, "Agreement"). Petitioner and Respondent also agree to be bound and abide by the terms of this Agreement.

The parties acknowledge that this document is an open record of the Director to be made available for inspection to anyone requesting a copy thereof as required by Chapters 374, 610, and 621 RSMo, and that this Agreement embodies the entire agreement and understanding of the parties with respect to the subject matter contained herein. The parties hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made by any party. The parties stipulate that this Agreement is in their best interests and is in the best interests of the people of this state. The parties stipulate and agree that no party hereto is a prevailing party in this action and that no party hereto is entitled to an award of fees and expenses under the provisions of section 536.087, RSMo, or any other statute or rule. The parties agree that this Agreement does not bind or restrict the Director as to any other violations of the insurance laws or statutes by Respondent. The parties agree that the AHC has jurisdiction of the insurance producer license of Respondent Spillman, and of this matter.

Based upon the foregoing, the Petitioner, Director W. Dale Finke, and the Respondent, Michael Spillman, stipulate to the following and request that the AHC adopt the following

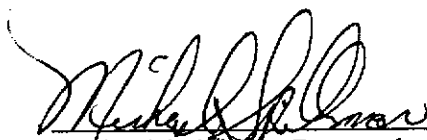
Stipulation of Facts and Consent to Finding of Cause for Discipline as its own findings of fact and conclusions of law:

1. W. Dale Finke (hereinafter, "Director") is the duly appointed Director of Insurance, State of Missouri, whose duties include the supervision, regulation and discipline of insurance producers in the state of Missouri.
2. Respondent Spillman has been issued a Missouri insurance producer license, number PR283629, which license is currently in good standing.
3. The Complaint in this matter was filed on April 17, 2006 and subsequently served on Respondent on April 24, 2006. Respondent filed an Answer through counsel, Mark A. Ludwig.
4. Respondent hereby admits that he has improperly withheld money received in the course of doing insurance business, in violation of § 375.141.1(4), RSMo (Cum. Supp. 2005) by receiving \$7,500 on August 15, 2003, \$2,560 on October 16, 2003, \$1,054 on October 16, 2003 and \$4,721 on October 31, 2003, from an insured (Elver Johnson Excavating, Inc.), and diverting such funds for a use other than that intended. Such actions are grounds for discipline of his insurance producer license under §375.141.1(4), RSMo (Cum. Supp. 2005).
5. The parties to this Agreement acknowledge and agree that if the AHC makes a finding of cause to discipline pursuant to this Agreement, the Director will revoke Respondent Spillman's insurance producer license after the AHC's finding. The parties agree to waive a disciplinary hearing and further agree that the Director shall enter he revocation order after the AHC's finding.
6. Petitioner and Respondent, pursuant to 1 CSR 15-3.440, waive hearing in this matter and consent to a finding by the AHC of cause to discipline the insurance producer license of


Respondent Spillman based on the above stipulated facts, pursuant to 1 CSR 15-3.440 and section 621.045, RSMo.

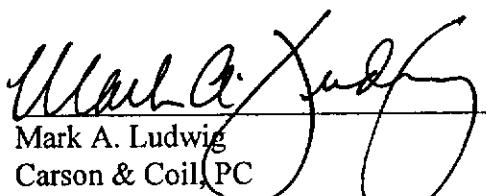
WHEREFORE, the parties to this matter voluntarily and knowingly stipulate and consent to the above-cited facts and to a finding of cause to discipline the insurance producer license of Respondent Spillman. The parties further request that the AHC issue its Findings and Conclusions, and Consent Order, consistent with this Stipulation.

W. Dale Finke, Director
Department of Insurance, State of Missouri
Petitioner



Michael Spillman, Respondent Date

 8-21-06
By: Stephen R. Gleason Date
Senior Counsel, Legal Section
Missouri Dept. of Insurance
Attorney for Petitioner

 8-17-06

Mark A. Ludwig Date
Carson & Coil, PC
Attorney for Respondent Michael Spillman